

1 AMENDMENT TO HOUSE BILL 697

2 AMENDMENT NO. _____. Amend House Bill 697 by replacing
3 everything after the enacting clause as follows:

4 "Section 5. The Mental Health and Developmental
5 Disabilities Code is amended by changing Sections 3-605 and
6 3-819 as follows:

7 (405 ILCS 5/3-605) (from Ch. 91 1/2, par. 3-605)

8 Sec. 3-605. (a) Upon receipt of a petition and
9 certificate prepared pursuant to this Article, the county
10 sheriff of the county in which a respondent is found shall
11 take a respondent into custody and notify the Department.
12 The Department shall ~~and--transport-him-to-a-mental-health~~
13 ~~facility,~~ or may make arrangements either directly or through
14 agreements with other another public or private entities
15 ~~entity----~~including---a---licensed---ambulance---service to
16 appropriately transport the respondent to the mental health
17 facility. In the event it is determined by such facility that
18 the respondent is in need of commitment or treatment at
19 another mental health facility, the Department ~~county-sheriff~~
20 shall ~~transport-the--respondent--to--the--appropriate--mental~~
21 ~~health--facility,~~ or the county-sheriff may make arrangements
22 either directly or through agreements with other public or

1 ~~private entities~~ another-public-or-private-entity-including-a
2 licensed--ambulance--service to appropriately transport the
3 respondent to the mental health facility.

4 (b) The county sheriff may delegate his duties hereunder
5 to another law enforcement body within that county if that
6 law enforcement body agrees.

7 (c) The transporting authority acting in good faith and
8 without negligence in connection with the transportation of
9 respondents shall incur no liability, civil or criminal, by
10 reason of such transportation.

11 (d) The respondent and the estate of that respondent are
12 liable for the payment of transportation costs for
13 transporting the respondent to a mental health facility. If
14 the respondent is a beneficiary of a trust described in
15 Section 15.1 of the Trusts and Trustees Act, the trust shall
16 not be considered a part of the respondent's estate and shall
17 not be subject to payment for transportation costs for
18 transporting the respondent to a mental health facility under
19 this Section except to the extent permitted under Section
20 15.1 of the Trusts and Trustees Act. If the respondent is
21 unable to pay or if the estate of the respondent is
22 insufficient, the responsible relatives are severally liable
23 for the payment of those sums or for the balance due in case
24 less than the amount owing has been paid. If the respondent
25 is covered by insurance, the insurance carrier shall be
26 liable for payment to the extent authorized by the
27 respondent's insurance policy.

28 (e) The Department may not make arrangements with an
29 existing hospital or grant-in-aid or fee-for-service
30 community provider for transportation services under this
31 Section unless the hospital or provider has voluntarily
32 submitted a proposal for its transportation services. This
33 proposal shall include the provision of trained personnel and
34 the use of an appropriate vehicle for the safe transport of

1 the respondents.

2 (Source: P.A. 87-1158.)

3 (405 ILCS 5/3-819) (from Ch. 91 1/2, par. 3-819)

4 Sec. 3-819. (a) When a recipient is hospitalized upon
5 court order, the order may authorize a relative or friend of
6 the recipient to transport the recipient to the facility if
7 such person is able to do so safely and humanely. When the
8 Department--indicates--that--it--has--transportation--to--the
9 facility-available, the order may authorize the Department to
10 transport the--recipient--there. The court may order the
11 Department sheriff--of--the-county-in-which-such-proceedings
12 are-held to transport the recipient to the facility. When a
13 recipient is hospitalized upon court order, and the recipient
14 has been transported to a mental health facility, other than
15 a state-operated mental health facility, and it is determined
16 by the facility that the recipient is in need of commitment
17 or treatment at another mental health facility, the court
18 shall determine whether a relative or friend of the recipient
19 or the Department is authorized to transport the recipient
20 between facilities, or whether the Department county-sheriff
21 is responsible for transporting the recipient between
22 facilities. The Department shall sheriff---may make
23 arrangements either directly or through agreements with
24 another public or private entity including a licensed
25 ambulance service to appropriately transport the recipient to
26 the facility. The transporting entity acting in good faith
27 and without negligence in connection with the transportation
28 of recipients shall incur no liability, civil or criminal, by
29 reason of such transportation.

30 (b) The court may authorize the transporting entity to
31 bill the recipient, the estate of the recipient, legally
32 responsible relatives, or insurance carrier for the cost of
33 providing transportation of the recipient to a mental health

1 facility. The recipient and the estate of the recipient are
2 liable for the payment of transportation costs for
3 transporting the recipient to a mental health facility. If
4 the recipient is a beneficiary of a trust described in
5 Section 15.1 of the Trusts and Trustees Act, the trust shall
6 not be considered a part of the recipient's estate and shall
7 not be subject to payment for transportation costs for
8 transporting the recipient to a mental health facility under
9 this section, except to the extent permitted under Section
10 15.1 of the Trusts and Trustees Act. If the recipient is
11 unable to pay or if the estate of the recipient is
12 insufficient, the responsible relatives are severally liable
13 for the payment of those sums or for the balance due in case
14 less than the amount owing has been paid. If the recipient
15 is covered by insurance, the insurance carrier shall be
16 liable for payment to the extent authorized by the
17 recipient's insurance policy.

18 (c) Upon the delivery of a recipient to a facility, in
19 accordance with the procedure set forth in this Article, the
20 facility director of the facility shall sign a receipt
21 acknowledging custody of the recipient and for any personal
22 property belonging to him, which receipt shall be filed with
23 the clerk of the court entering the hospitalization order.

24 (d) The Department may not make arrangements with an
25 existing hospital or grant-in-aid or fee-for-service
26 community provider for transportation services under this
27 Section unless the hospital or provider has voluntarily
28 submitted a proposal for its transportation services. This
29 proposal shall include the provision of trained personnel and
30 the use of an appropriate vehicle for the safe transport of
31 the recipients.

32 (Source: P.A. 87-1158; 88-380.)

33 Section 10. The Code of Criminal Procedure of 1963 is

1 amended by changing Section 104-17 as follows:

2 (725 ILCS 5/104-17) (from Ch. 38, par. 104-17)

3 Sec. 104-17. Commitment for Treatment; Treatment Plan.

4 (a) If the defendant is eligible to be or has been
5 released on bail or on his own recognizance, the court shall
6 select the least physically restrictive form of treatment
7 therapeutically appropriate and consistent with the treatment
8 plan.

9 (b) If the defendant's disability is mental, the court
10 may order him placed for treatment in the custody of the
11 Department of Human Services, or the court may order him
12 placed in the custody of any other appropriate public or
13 private mental health facility or treatment program which has
14 agreed to provide treatment to the defendant. If the
15 defendant is placed in the custody of the Department of Human
16 Services, the defendant shall be placed in a secure setting
17 unless the court determines that there are compelling reasons
18 why such placement is not necessary. During the period of
19 time required to determine the appropriate placement the
20 defendant shall remain in jail. Upon completion of the
21 placement process, the Department of Human Services sheriff
22 ~~shall be notified and~~ shall make arrangements either directly
23 or through agreements with other public or private entities
24 to appropriately transport the defendant to the designated
25 facility. The placement may be ordered either on an
26 inpatient or an outpatient basis.

27 (c) If the defendant's disability is physical, the court
28 may order him placed under the supervision of the Department
29 of Human Services which shall place and maintain the
30 defendant in a suitable treatment facility or program, or the
31 court may order him placed in an appropriate public or
32 private facility or treatment program which has agreed to
33 provide treatment to the defendant. The placement may be

1 ordered either on an inpatient or an outpatient basis.

2 (d) The clerk of the circuit court shall transmit to the
3 Department, agency or institution, if any, to which the
4 defendant is remanded for treatment, the following:

5 (1) a certified copy of the order to undergo
6 treatment;

7 (2) the county and municipality in which the
8 offense was committed;

9 (3) the county and municipality in which the arrest
10 took place; and

11 (4) all additional matters which the Court directs
12 the clerk to transmit.

13 (e) Within 30 days of entry of an order to undergo
14 treatment, the person supervising the defendant's treatment
15 shall file with the court, the State, and the defense a
16 report assessing the facility's or program's capacity to
17 provide appropriate treatment for the defendant and
18 indicating his opinion as to the probability of the
19 defendant's attaining fitness within a period of one year
20 from the date of the finding of unfitness. If the report
21 indicates that there is a substantial probability that the
22 defendant will attain fitness within the time period, the
23 treatment supervisor shall also file a treatment plan which
24 shall include:

25 (1) A diagnosis of the defendant's disability;

26 (2) A description of treatment goals with respect
27 to rendering the defendant fit, a specification of the
28 proposed treatment modalities, and an estimated timetable
29 for attainment of the goals;

30 (3) An identification of the person in charge of
31 supervising the defendant's treatment.

32 (f) The Department may not make arrangements with an
33 existing hospital or grant-in-aid or fee-for-service
34 community provider for transportation services under this

1 Section unless the hospital or provider has voluntarily
2 submitted a proposal for its transportation services. This
3 proposal shall include the provision of trained personnel and
4 the use of an appropriate vehicle for the safe transport of
5 the defendants.

6 (Source: P.A. 89-507, eff. 7-1-97.)

7 Section 15. The Unified Code of Corrections is amended
8 by changing Section 5-2-4 as follows:

9 (730 ILCS 5/5-2-4) (from Ch. 38, par. 1005-2-4)

10 Sec. 5-2-4. Proceedings after Acquittal by Reason of
11 Insanity.

12 (a) After a finding or verdict of not guilty by reason
13 of insanity under Sections 104-25, 115-3 or 115-4 of The Code
14 of Criminal Procedure of 1963, the defendant shall be ordered
15 to the Department of Human Services for an evaluation as to
16 whether he is in need of mental health services. The order
17 shall specify whether the evaluation shall be conducted on an
18 inpatient or outpatient basis. If the evaluation is to be
19 conducted on an inpatient basis, the defendant shall be
20 placed in a secure setting unless the Court determines that
21 there are compelling reasons why such placement is not
22 necessary. After the evaluation and during the period of time
23 required to determine the appropriate placement, the
24 defendant shall remain in jail. Upon completion of the
25 placement process the Department of Human Services sheriff
26 shall-be-notified-and shall make arrangements either directly
27 or through agreements with other public or private entities
28 to appropriately transport the defendant to the designated
29 facility.

30 The Department may not make arrangements with an existing
31 hospital or grant-in-aid or fee-for-service community
32 provider for transportation services under this Section

1 unless the hospital or provider has voluntarily submitted a
2 proposal for its transportation services. This proposal
3 shall include the provision of trained personnel and the use
4 of an appropriate vehicle for the safe transport of the
5 defendants.

6 The Department shall provide the Court with a report of
7 its evaluation within 30 days of the date of this order. The
8 Court shall hold a hearing as provided under the Mental
9 Health and Developmental Disabilities Code to determine if
10 the individual is: (a) in need of mental health services on
11 an inpatient basis; (b) in need of mental health services on
12 an outpatient basis; (c) a person not in need of mental
13 health services. The Court shall enter its findings.

14 If the defendant is found to be in need of mental health
15 services on an inpatient care basis, the Court shall order
16 the defendant to the Department of Human Services. The
17 defendant shall be placed in a secure setting unless the
18 Court determines that there are compelling reasons why such
19 placement is not necessary. Such defendants placed in a
20 secure setting shall not be permitted outside the facility's
21 housing unit unless escorted or accompanied by personnel of
22 the Department of Human Services or with the prior approval
23 of the Court for unsupervised on-grounds privileges as
24 provided herein. Any defendant placed in a secure setting
25 pursuant to this Section, transported to court hearings or
26 other necessary appointments off facility grounds by
27 personnel of the Department of Human Services, shall be
28 placed in security devices or otherwise secured during the
29 period of transportation to assure secure transport of the
30 defendant and the safety of Department of Human Services
31 personnel and others. These security measures shall not
32 constitute restraint as defined in the Mental Health and
33 Developmental Disabilities Code. If the defendant is found to
34 be in need of mental health services, but not on an inpatient

1 care basis, the Court shall conditionally release the
2 defendant, under such conditions as set forth in this Section
3 as will reasonably assure the defendant's satisfactory
4 progress and participation in treatment or rehabilitation and
5 the safety of the defendant and others. If the Court finds
6 the person not in need of mental health services, then the
7 Court shall order the defendant discharged from custody.

8 (1) Definitions: For the purposes of this Section:

9 (A) (Blank).

10 (B) "In need of mental health services on an
11 inpatient basis" means: a defendant who has been found
12 not guilty by reason of insanity but who due to mental
13 illness is reasonably expected to inflict serious
14 physical harm upon himself or another and who would
15 benefit from inpatient care or is in need of inpatient
16 care.

17 (C) "In need of mental health services on an
18 outpatient basis" means: a defendant who has been found
19 not guilty by reason of insanity who is not in need of
20 mental health services on an inpatient basis, but is in
21 need of outpatient care, drug and/or alcohol
22 rehabilitation programs, community adjustment programs,
23 individual, group, or family therapy, or chemotherapy.

24 (D) "Conditional Release" means: the release from
25 either the custody of the Department of Human Services or
26 the custody of the Court of a person who has been found
27 not guilty by reason of insanity under such conditions as
28 the Court may impose which reasonably assure the
29 defendant's satisfactory progress in treatment or
30 habilitation and the safety of the defendant and others.
31 The Court shall consider such terms and conditions which
32 may include, but need not be limited to, outpatient care,
33 alcoholic and drug rehabilitation programs, community
34 adjustment programs, individual, group, family, and

1 chemotherapy, random testing to ensure the defendant's
2 timely and continuous taking of any medicines prescribed
3 to control or manage his or her conduct or mental state,
4 and periodic checks with the legal authorities and/or the
5 Department of Human Services. The Court may order as a
6 condition of conditional release that the defendant not
7 contact the victim of the offense that resulted in the
8 finding or verdict of not guilty by reason of insanity or
9 any other person. The Court may order the Department of
10 Human Services to provide care to any person
11 conditionally released under this Section. The
12 Department may contract with any public or private agency
13 in order to discharge any responsibilities imposed under
14 this Section. The Department shall monitor the provision
15 of services to persons conditionally released under this
16 Section and provide periodic reports to the Court
17 concerning the services and the condition of the
18 defendant. Whenever a person is conditionally released
19 pursuant to this Section, the State's Attorney for the
20 county in which the hearing is held shall designate in
21 writing the name, telephone number, and address of a
22 person employed by him or her who shall be notified in
23 the event that either the reporting agency or the
24 Department decides that the conditional release of the
25 defendant should be revoked or modified pursuant to
26 subsection (i) of this Section. Such conditional release
27 shall be for a period of five years. However, the
28 defendant, the person or facility rendering the
29 treatment, therapy, program or outpatient care, the
30 Department, or the State's Attorney may petition the
31 Court for an extension of the conditional release period
32 for an additional 5 years. Upon receipt of such a
33 petition, the Court shall hold a hearing consistent with
34 the provisions of this paragraph (a) and paragraph (f) of

1 this Section, shall determine whether the defendant
2 should continue to be subject to the terms of conditional
3 release, and shall enter an order either extending the
4 defendant's period of conditional release for an
5 additional 5 year period or discharging the defendant.
6 Additional 5-year periods of conditional release may be
7 ordered following a hearing as provided in this Section.
8 However, in no event shall the defendant's period of
9 conditional release continue beyond the maximum period of
10 commitment ordered by the Court pursuant to paragraph (b)
11 of this Section. These provisions for extension of
12 conditional release shall only apply to defendants
13 conditionally released on or after August 8, 2003 the
14 ~~effective-date-of-this-amendatory-Act-of-the-93rd-General~~
15 ~~Assembly~~. However the extension provisions of Public Act
16 83-1449 apply only to defendants charged with a forcible
17 felony.

18 (E) "Facility director" means the chief officer of
19 a mental health or developmental disabilities facility or
20 his or her designee or the supervisor of a program of
21 treatment or habilitation or his or her designee.
22 "Designee" may include a physician, clinical
23 psychologist, social worker, nurse, or clinical
24 professional counselor.

25 (b) If the Court finds the defendant in need of mental
26 health services on an inpatient basis, the admission,
27 detention, care, treatment or habilitation, treatment plans,
28 review proceedings, including review of treatment and
29 treatment plans, and discharge of the defendant after such
30 order shall be under the Mental Health and Developmental
31 Disabilities Code, except that the initial order for
32 admission of a defendant acquitted of a felony by reason of
33 insanity shall be for an indefinite period of time. Such
34 period of commitment shall not exceed the maximum length of

1 time that the defendant would have been required to serve,
2 less credit for good behavior as provided in Section 5-4-1 of
3 the Unified Code of Corrections, before becoming eligible for
4 release had he been convicted of and received the maximum
5 sentence for the most serious crime for which he has been
6 acquitted by reason of insanity. The Court shall determine
7 the maximum period of commitment by an appropriate order.
8 During this period of time, the defendant shall not be
9 permitted to be in the community in any manner, including but
10 not limited to off-grounds privileges, with or without escort
11 by personnel of the Department of Human Services,
12 unsupervised on-grounds privileges, discharge or conditional
13 or temporary release, except by a plan as provided in this
14 Section. In no event shall a defendant's continued
15 unauthorized absence be a basis for discharge. Not more than
16 30 days after admission and every 60 days thereafter so long
17 as the initial order remains in effect, the facility director
18 shall file a treatment plan report in writing with the court
19 and forward a copy of the treatment plan report to the clerk
20 of the court, the State's Attorney, and the defendant's
21 attorney, if the defendant is represented by counsel, or to a
22 person authorized by the defendant under the Mental Health
23 and Developmental Disabilities Confidentiality Act to be sent
24 a copy of the report. The report shall include an opinion as
25 to whether the defendant is currently in need of mental
26 health services on an inpatient basis or in need of mental
27 health services on an outpatient basis. The report shall
28 also summarize the basis for those findings and provide a
29 current summary of the following items from the treatment
30 plan: (1) an assessment of the defendant's treatment needs,
31 (2) a description of the services recommended for treatment,
32 (3) the goals of each type of element of service, (4) an
33 anticipated timetable for the accomplishment of the goals,
34 and (5) a designation of the qualified professional

1 responsible for the implementation of the plan. The report
2 may also include unsupervised on-grounds privileges,
3 off-grounds privileges (with or without escort by personnel
4 of the Department of Human Services), home visits and
5 participation in work programs, but only where such
6 privileges have been approved by specific court order, which
7 order may include such conditions on the defendant as the
8 Court may deem appropriate and necessary to reasonably assure
9 the defendant's satisfactory progress in treatment and the
10 safety of the defendant and others.

11 (c) Every defendant acquitted of a felony by reason of
12 insanity and subsequently found to be in need of mental
13 health services shall be represented by counsel in all
14 proceedings under this Section and under the Mental Health
15 and Developmental Disabilities Code.

16 (1) The Court shall appoint as counsel the public
17 defender or an attorney licensed by this State.

18 (2) Upon filing with the Court of a verified
19 statement of legal services rendered by the private
20 attorney appointed pursuant to paragraph (1) of this
21 subsection, the Court shall determine a reasonable fee
22 for such services. If the defendant is unable to pay the
23 fee, the Court shall enter an order upon the State to pay
24 the entire fee or such amount as the defendant is unable
25 to pay from funds appropriated by the General Assembly
26 for that purpose.

27 (d) When the facility director determines that:

28 (1) the defendant is no longer in need of mental
29 health services on an inpatient basis; and

30 (2) the defendant may be conditionally released
31 because he or she is still in need of mental health
32 services or that the defendant may be discharged as not
33 in need of any mental health services; or

34 (3) the defendant no longer requires placement in a

1 secure setting;
2 the facility director shall give written notice to the Court,
3 State's Attorney and defense attorney. Such notice shall set
4 forth in detail the basis for the recommendation of the
5 facility director, and specify clearly the recommendations,
6 if any, of the facility director, concerning conditional
7 release. Any recommendation for conditional release shall
8 include an evaluation of the defendant's need for
9 psychotropic medication, what provisions should be made, if
10 any, to ensure that the defendant will continue to receive
11 psychotropic medication following discharge, and what
12 provisions should be made to assure the safety of the
13 defendant and others in the event the defendant is no longer
14 receiving psychotropic medication. Within 30 days of the
15 notification by the facility director, the Court shall set a
16 hearing and make a finding as to whether the defendant is:

- 17 (i) (blank); or
- 18 (ii) in need of mental health services in the form
19 of inpatient care; or
- 20 (iii) in need of mental health services but not
21 subject to inpatient care; or
- 22 (iv) no longer in need of mental health services;
23 or
- 24 (v) no longer requires placement in a secure
25 setting.

26 Upon finding by the Court, the Court shall enter its
27 findings and such appropriate order as provided in subsection
28 (a) of this Section.

29 (e) A defendant admitted pursuant to this Section, or
30 any person on his behalf, may file a petition for treatment
31 plan review, transfer to a non-secure setting within the
32 Department of Human Services or discharge or conditional
33 release under the standards of this Section in the Court
34 which rendered the verdict. Upon receipt of a petition for

1 treatment plan review, transfer to a non-secure setting or
2 discharge or conditional release, the Court shall set a
3 hearing to be held within 120 days. Thereafter, no new
4 petition may be filed for 180 days without leave of the
5 Court.

6 (f) The Court shall direct that notice of the time and
7 place of the hearing be served upon the defendant, the
8 facility director, the State's Attorney, and the defendant's
9 attorney. If requested by either the State or the defense or
10 if the Court feels it is appropriate, an impartial
11 examination of the defendant by a psychiatrist or clinical
12 psychologist as defined in Section 1-103 of the Mental Health
13 and Developmental Disabilities Code who is not in the employ
14 of the Department of Human Services shall be ordered, and the
15 report considered at the time of the hearing.

16 (g) The findings of the Court shall be established by
17 clear and convincing evidence. The burden of proof and the
18 burden of going forth with the evidence rest with the
19 defendant or any person on the defendant's behalf when a
20 hearing is held to review a petition filed by or on behalf of
21 the defendant. The evidence shall be presented in open Court
22 with the right of confrontation and cross-examination. Such
23 evidence may include, but is not limited to:

24 (1) whether the defendant appreciates the harm
25 caused by the defendant to others and the community by
26 his or her prior conduct that resulted in the finding of
27 not guilty by reason of insanity;

28 (2) Whether the person appreciates the criminality
29 of conduct similar ~~similiar~~ to the conduct for which he
30 or she was originally charged in this matter;

31 (3) the current state of the defendant's illness;

32 (4) what, if any, medications the defendant is
33 taking to control his or her mental illness;

34 (5) what, if any, adverse physical side effects the

1 medication has on the defendant;

2 (6) the length of time it would take for the
3 defendant's mental health to deteriorate if the defendant
4 stopped taking prescribed medication;

5 (7) the defendant's history or potential for
6 alcohol and drug abuse;

7 (8) the defendant's past criminal history;

8 (9) any specialized physical or medical needs of
9 the defendant;

10 (10) any family participation or involvement
11 expected upon release and what is the willingness and
12 ability of the family to participate or be involved;

13 (11) the defendant's potential to be a danger to
14 himself, herself, or others; and

15 (12) any other factor or factors the Court deems
16 appropriate.

17 (h) Before the court orders that the defendant be
18 discharged or conditionally released, it shall order the
19 facility director to establish a discharge plan that includes
20 a plan for the defendant's shelter, support, and medication.
21 If appropriate, the court shall order that the facility
22 director establish a program to train the defendant in
23 self-medication under standards established by the Department
24 of Human Services. If the Court finds, consistent with the
25 provisions of this Section, that the defendant is no longer
26 in need of mental health services it shall order the facility
27 director to discharge the defendant. If the Court finds,
28 consistent with the provisions of this Section, that the
29 defendant is in need of mental health services, and no longer
30 in need of inpatient care, it shall order the facility
31 director to release the defendant under such conditions as
32 the Court deems appropriate and as provided by this Section.
33 Such conditional release shall be imposed for a period of 5
34 years as provided in paragraph (1) (D) of subsection (a) and

1 shall be subject to later modification by the Court as
2 provided by this Section. If the Court finds consistent with
3 the provisions in this Section that the defendant is in need
4 of mental health services on an inpatient basis, it shall
5 order the facility director not to discharge or release the
6 defendant in accordance with paragraph (b) of this Section.

7 (i) If within the period of the defendant's conditional
8 release the State's Attorney determines that the defendant
9 has not fulfilled the conditions of his or her release, the
10 State's Attorney may petition the Court to revoke or modify
11 the conditional release of the defendant. Upon the filing of
12 such petition the defendant may be remanded to the custody of
13 the Department, or to any other mental health facility
14 designated by the Department, pending the resolution of the
15 petition. Nothing in this Section shall prevent the
16 emergency admission of a defendant pursuant to Article VI of
17 Chapter III of the Mental Health and Developmental
18 Disabilities Code or the voluntary admission of the defendant
19 pursuant to Article IV of Chapter III of the Mental Health
20 and Developmental Disabilities Code. If the Court determines,
21 after hearing evidence, that the defendant has not fulfilled
22 the conditions of release, the Court shall order a hearing to
23 be held consistent with the provisions of paragraph (f) and
24 (g) of this Section. At such hearing, if the Court finds that
25 the defendant is in need of mental health services on an
26 inpatient basis, it shall enter an order remanding him or her
27 to the Department of Human Services or other facility. If the
28 defendant is remanded to the Department of Human Services, he
29 or she shall be placed in a secure setting unless the Court
30 determines that there are compelling reasons that such
31 placement is not necessary. If the Court finds that the
32 defendant continues to be in need of mental health services
33 but not on an inpatient basis, it may modify the conditions
34 of the original release in order to reasonably assure the

1 defendant's satisfactory progress in treatment and his or her
2 safety and the safety of others in accordance with the
3 standards established in paragraph (1) (D) of subsection (a).
4 Nothing in this Section shall limit a Court's contempt powers
5 or any other powers of a Court.

6 (j) An order of admission under this Section does not
7 affect the remedy of habeas corpus.

8 (k) In the event of a conflict between this Section and
9 the Mental Health and Developmental Disabilities Code or the
10 Mental Health and Developmental Disabilities Confidentiality
11 Act, the provisions of this Section shall govern.

12 (l) This amendatory Act shall apply to all persons who
13 have been found not guilty by reason of insanity and who are
14 presently committed to the Department of Mental Health and
15 Developmental Disabilities (now the Department of Human
16 Services).

17 (m) The Clerk of the Court shall, after the entry of an
18 order of transfer to a non-secure setting of the Department
19 of Human Services or discharge or conditional release,
20 transmit a certified copy of the order to the Department of
21 Human Services, and the sheriff of the county from which the
22 defendant was admitted. The Clerk of the Court shall also
23 transmit a certified copy of the order of discharge or
24 conditional release to the Illinois Department of State
25 Police, to the proper law enforcement agency for the
26 municipality where the offense took place, and to the sheriff
27 of the county into which the defendant is conditionally
28 discharged. The Illinois Department of State Police shall
29 maintain a centralized record of discharged or conditionally
30 released defendants while they are under court supervision
31 for access and use of appropriate law enforcement agencies.

32 (Source: P.A. 93-78, eff. 1-1-04; 93-473, eff. 8-8-03;
33 revised 9-15-03.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".